

## **Remarks**

### **I. Introduction**

Claims 117-136 will be pending in this Application. Based on the following remarks, Applicants respectfully request reconsideration and allowance of the pending claims.

### **II. 35 U.S.C. § 112**

Claims 117-136 are rejected as being indefinite due to the recitation of “left and right sidewalls of the cavity.” Without acquiescing to the Examiner’s rejection, the claims have been amended to recite “left and right sidewalls defining the cavity.”

### **III. 35 U.S.C. § 103(a)**

#### **1. Claims 117-121, 123, 124, 126-132**

The above claims are rejected as obvious over U.S. Patent No. 4,327,279 to Guibert. Applicants respectfully traverse these rejections and request reconsideration and withdrawal thereof.

The Action at paragraph 5 submits that Guibert shows gas being directed in a downwardly convergent manner as claimed. Applicants disagree with this interpretation. Figure 2 of Guibert is a section taken in a horizontal plane, not a vertical plane. (See Guibert col. 4, lines 63-64: “FIG. 2 schematically shows the unit in a section taken *horizontally* therethrough.”) (emphasis added). The gas discharged through the holes in walls 14a, 14b, and 14c thus moves *horizontally* across the oven, *not downwardly* as claimed.

Moreover, as previously argued at pages 7-11 in the response filed October 10, 2006 in connection with this application (which also argued against the Guibert reference), it would not have been obvious to use the Guibert reference to cook food in the manner as presently claimed. Specifically, the Guibert reference does not teach or suggest the use of air streams that “*turbulently collide*” to cook the food. Instead, the air used by the Guibert device *does not touch the food*--and it is never intended to do so. Rather, Guibert is concerned with the food heating too fast on the surface and not in the middle. It simply seeks to re-heat already cooked food, not actually cook the food product from an initial standpoint. In order to further clarify this distinction and the fact that the air streams collide and touch the food product, Applicants have amended the claims to recite (and include this previously-removed limitation back into the claims) that the gas collides in close proximity to “*an exposed surface*” of the food product to be cooked.

The Action contends that it would have been obvious to eliminate the heat interruption described in Guibert if one wished to cook a food product and not merely heat it to allow it to be refrozen. Applicant disagrees. Guibert specifically states that uninterrupted heat will re-cook or scorch the food, leaving the intermediate layers and the core “below the service temperature.” *See* Guibert, col. 6, line 56 – col. 7, line 2. Thus, the skilled person would understand that uninterrupted heat would be *unsuitable* for cooking, since such heat would not cook the intermediate and core layers of the food (leaving the resulting food product inedible). Applicant thus

respectfully submits that the rejection based on MPEP 2144.04(II)(A) should be reconsidered and withdrawn.

2. Claims 122 and 125

The above claims are rejected as obvious over Guibert in view of U.S. Patent No. 6,060,701 to McKee. Applicants respectfully traverse these rejections and request reconsideration and withdrawal thereof.

Without acquiescing to the combinability of these references or the Examiner's rejections, Applicants submit that at least for the above-discussed reasons with respect to the Guibert patent, even if it were to be combined with the McKee patent as suggested, the claimed invention would not result. Accordingly, Applicants respectfully request that these rejections be reconsidered and withdrawn.

3. Claims 133-136

The above claims are rejected as obvious over Guibert in view of U.S. Patent No. 5,166,487 to Hurley. Applicants respectfully traverse these rejections and request reconsideration and withdrawal thereof.

Without acquiescing to the combinability of these references or the Examiner's rejections, Applicants submit that at least for the above-discussed reasons with respect to the Guibert patent, even if it were to be combined with the Hurley patent as suggested, the claimed invention would not result. Accordingly, Applicants respectfully request that these rejections be reconsidered and withdrawn.

#### **IV. Double Patenting**

The Action also rejects claims 117-136 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims of co-pending Application No. 10/614,268 (which has since issued as U.S. Patent No. 7,836,874). Without acquiescing to the rejections, Applicants submit herewith a terminal disclaimer.

#### **CONCLUSION**

For at least the above reasons, Applicants respectfully request allowance of the pending claims and issuance of a patent containing these claims in due course. If the Examiner believes there are any issues that can be resolved via a telephone conference, or if there are any informalities that can be corrected by an Examiner's amendment, she is invited to contact the undersigned.

Respectfully submitted,

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